

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF)	
VENTURE COMMUNICATION COOPERATIVE)	MOTION TO STRIKE
FOR SUSPENSION OR MODIFICATION OF)	AND MOTION IN
LOCAL DIALING PARITY RECIPROCAL)	LIMINE
COMPENSATION OBLIGATIONS)	TC06-181
)	

Come now Venture Communications Cooperative (“Venture”), and the South Dakota Telecommunications Association (“SDTA”), by and through their respective counsel, and submit the following Motion to Strike portions of the late filed testimony of Bob Keeger and Ron Williams dated September 5, 2007, and a Motion in Limine, pursuant to SDCL 19-9-7, preventing said testimony at the hearing in this matter.

Background

1. On October 24, 2006, the Commission received an application from Venture for suspension or modification of local dialing parity and certain reciprocal compensation obligations.

2. The Commission granted motions to intervene filed by SDTA, RCC and Alltel.

3. On February 6, 2007, this Commission granted Alltel’s request to use the Office of Hearing Examiners (“OHE”).¹

4. The OHE initially assigned the case to Hearing Examiner Julie Johnson. All proceedings at the OHE were conducted by Ms. Johnson, until her resignation from her position as a hearing examiner effective September 30, 2007. Thereafter, the case was assigned to Hillary Brady.

5. Pursuant to dates agreed to among the parties, the following prefiled testimony was submitted in this docket.

¹ Venture resisted Alltel’s request to transfer this docket to the OHE, and has consistently argued that the docket should be before the Commission. See Opposition to Request of Alltel to Use Office of Hearing Examiners, filed by Venture on January 26, 2007.

- | | |
|-----------|---|
| June 12 | Venture Direct Testimony of Randy Houdek, Jo Shotwell, and Larry Thompson. |
| July 23 | Testimony of Dan Davis on behalf of Intervenor SDTA.
Alltel's Testimony of Ron Williams. |
| August 10 | Venture's Rebuttal Testimony of Randy Houdek, Jo Shotwell, and Larry Thompson. |

6. At the time Venture submitted its Rebuttal Testimony on August 10th, Venture informed the new hearing examiner, Ms. Brady, that this would be the final round of prefiled testimony. See Attachment 1, transmittal letter to Ms. Brady. Specifically, Venture acquainted the hearing examiner of the agreement between Venture and Alltel that any surrebuttal testimony by Alltel would be limited to any cost testimony Venture included in its rebuttal testimony resulting from Alltel's late production of discovery data. Since Venture did not include any additional cost study testimony resulting from discovery materials submitted by Alltel, pursuant to agreement of the parties, there would be no surrebuttal testimony or response thereto. The agreement between Alltel and Venture with regard to prefiled testimony is memorialized in email correspondence attached to Attachment 1.

7. Despite its agreement regarding prefiled testimony, Alltel argued to Ms. Brady that Alltel should have the opportunity to file additional surrebuttal testimony. See Attachment 2, email correspondence from Sean Simpson to Ms. Brady.

8. On or about August 15, 2007, following two telephone conferences with the parties, Ms. Brady made a definitive ruling regarding further testimony:

The proposition that Venture did not include any cost study testimony resulting from discovery materials submitted by Alltel went uncontested. Therefore, it is clear from the email correspondence of July 6, 2007, that surrebuttal prefiled testimony will end here. See Attachment 3, letter ruling from Hearing Examiner Hillary Brady.

9. On August 29, 2007, the parties filed a Joint Motion for Transfer and to Set Hearing Date. In said Motion, the parties acknowledged that “discovery is completed, and all prefiled testimony has been filed, with the possible exception of additional prefiled testimony that may result from amendment of Alltel’s response to Venture’s Petition for Arbitration (Docket TC06-159), and responses by Venture thereto.” See Attachment 4.

10. On September 5, 2007, Alltel amended its Response to Venture’s Petition for Arbitration (Docket TC06-159). In said amended response, Alltel stated that Alltel requests two (2) direct points of interconnection within Venture’s network.²

11. On September 5, 2007, Alltel filed Alltel’s Direct Testimony of Bob Keeger, both public and confidential, and also the Direct Testimony of Ron Williams, both public and confidential. Said testimony includes information which far exceeds the limited purpose of addressing the amendments in reference to Alltel’s request to implement two (2) direct points of interconnection on the Venture network. A majority of the testimony appears to be a second round of rebuttal testimony to Venture’s Direct Testimony filed on July 12th, and surrebuttal testimony to the rebuttal testimony filed by Venture on August 10, 2007.

12. Alltel is clearly trying to circumvent the prior ruling of the OHE (Attachment 3) by filing this surrebuttal testimony under the guise of supplemental direct testimony. Accordingly, Venture requests the Commission to strike any testimony that is beyond the

² According to the cover letter submitted by counsel, the Amended Response changes the original response paragraphs 18 and 20, strikes the last line in the original response of paragraph 30 and inserts a new paragraph 31 resulting in the remaining paragraphs being renumbered accordingly.

scope of addressing the amendments to Alltel's Response to Venture's Arbitration Petition, (TC 06-159), as follows:

A. Testimony of Bob Keeger:

This testimony should be stricken in its entirety. Alltel should not be allowed to introduce a new witness at this stage of the proceeding. Alternatively, Venture submits that all testimony starting at Page 2, Line 17, through Page 10, Line 3 and Exhibit RK1 should be stricken.

B. Testimony of Ron Williams:

The following portions of Ron Williams' testimony should be stricken: Page 1, Lines 19-24; All of Pages 2 and 3; Page 4, Lines 1-5; Page 4 Line 22, beginning with "In addition..." through Line 23; All of Pages 5 through 14, and Confidential Exhibit RW2.

Venture also requests that the Commission bar Alltel from introducing the stricken testimony at the hearing.

ARGUMENT

When Venture and SDTA agreed to delay the hearing in this proceeding and to transfer the case to the Commission, they did so on the condition that the testimony phase of the proceeding was over. The only exception made was for additional testimony related to a possible amendment by Alltel to its response in the arbitration proceeding. Alltel agreed to this condition. The agreement of the parties was memorialized in the Joint Motion for Transfer and to Set Hearing Date filed with this Commission in which the parties acknowledged that "discovery is completed, and all prefiled testimony has been filed, with the possible exception of additional pre-filed testimony that may result

from amendment of Alltel's response to Venture's Petition for Arbitration (Docket TC06-159), and responses by Venture thereto." (See Attachment 4).

In its Amended Response in the Arbitration Docket, TC06-159, Alltel made four changes to its original response.

1. At page 8, paragraph 18, Alltel deleted the following language: "including the option for a single interconnection point per LATA for all traffic destined to any exchange served by Venture."

2. At pages 8-9, Alltel added a new paragraph 20, which states, "Despite it (sic) clear legal right to demand and maintain indirect interconnection between the parties, Alltel, for a variety of reasons, has agreed to support two (2) direct points of interconnection on the Venture network. One in the Central Region of Venture's network and one in the Northeast Region of Venture's network." Alltel also deleted the following language at paragraph 20: "Alltel's proposed language is consistent with FCC rules and should be adopted in the final arbitrated agreement."

3. At page 12, paragraph 30, Alltel deleted the language, "The attached Alltel Proposed Agreement includes language consistent with Alltel's right to dialing parity."

4. At page 12, Alltel added a new paragraph 31, which states, "Despite it (sic) clear legal right to demand and maintain indirect interconnection between the parties, Alltel, for a variety of reasons, has agreed to support two (2) direct points of interconnection on the Venture network, Alltel maintains it is entitled to the dialing parity treatment as identified and explained above."

An examination of the sections of testimony filed by Mr. Keeger and Mr. Williams, which Venture argues should be stricken, shows that those sections have nothing to do with Alltel's amended response. In fact, the sections either directly respond to rebuttal testimony filed by Venture or provide additional testimony on issues previously addressed by Alltel in direct testimony, both of which should be considered surrebuttal testimony. Accordingly, this testimony violates the agreement of the parties and is nothing more than an attempt by Alltel to circumvent the order of the Hearing Officer denying Alltel's request to file surrebuttal testimony. Therefore, all of the

sections in dispute, as discussed herein, should be stricken and Alltel should be barred from introducing the stricken testimony at the hearing.

Testimony of Mr. Keeger

This testimony should be stricken in its entirety. Alltel should not be allowed to introduce a new witness at this stage of the proceeding. Alternatively, Venture submits that all testimony starting at Page 2, Line 17, through Page 10, Line 3 and Exhibit RK1 should be stricken.

At pages 2-5, Mr. Keeger analyzes the three routing scenarios described by Venture witness Thompson in his direct testimony. Mr. Keeger in no way demonstrates, or even alleges, that Alltel's amended response in the arbitration proceeding in any way impacts the need for his testimony. In fact, Alltel witness Williams at pages 8-12 of his original direct testimony (public version), already presented testimony on Venture's three routing scenarios.

At pages 6-10, Mr. Keeger presents testimony on routing options not considered by Venture. Again, Mr. Keeger in no way demonstrates, or even alleges, that Alltel's amended response in any way impacts the need for his testimony. On the contrary, Alltel had the ability to propose other routing options in its original direct testimony and, in fact, Mr. Williams proposed such options at page 8 of his original direct testimony.

In sum, the sections of Mr. Keeger's testimony that Venture argues should be stricken, have nothing to do with Alltel's amended response and it cannot be argued that they are the "result" of Alltel's amended response. Rather, Mr. Keeger seeks to present testimony to buttress the arguments made by Mr. Williams in his original direct testimony. In addition to violating the agreement of the parties and the Hearing Officer's

order, Alltel's attempt to present additional testimony at such a late date prejudices the other parties and should be stricken.

Testimony of Mr. Williams

Mr. Williams' new testimony at page 1, line 19 through page 3, line 10, and at page 5, line 2 through page 6, line 3, is a rehashing of the argument that Venture's costs are speculative, which he made in his original direct testimony. Mr. Williams makes a feeble attempt to associate Alltel's amended response to his testimony when he states at page 1, line 19 that two direct POIs "renders the remainder of Venture's cost projections in Scenarios 1, 2 and 3 entirely speculative." However, he then admits at page 1 line 21 that his testimony is not the result of the amended response when he states that the costs are speculative because "no other carrier has demanded or otherwise sought the dialing parity or routing scenarios projected by Venture." Mr. Williams made the exact same argument in his original direct testimony at page 3.

At page 3, line 11 – page 4, line 5, Mr. Williams admits that he is responding to Ms. Shotwell's Reply testimony. Clearly, Alltel cannot argue that this is anything but surrebuttal testimony, which was not allowed by the Hearing Officer.

At page 4, line 22 beginning with "In addition, RCC is the subject of an acquisition by Verizon Wireless..." through page 5, line 2, and at page 5, lines 17-18, Alltel discusses the pending acquisition of RCC by Verizon. Clearly, this is unrelated to Alltel's amended response and should be stricken.

At page 6, line 4 through page 8, line 17, Mr. Williams responds to the statements made by Venture witnesses in direct and rebuttal testimony, that Venture seeks to maintain the status quo with its suspension petition filing. Mr. Williams already

addressed this argument in his direct testimony at page 7. Further, when he states at page 6, lines 10-12, “However, the status quo is far short of what is needed by customers and has other negative impacts on competitors like Alltel.” Mr. Williams admits that his argument is unrelated to Alltel’s amended response in the arbitration proceeding.

At page 8, line 18 through page 10, line 7, Mr. Williams testimony is in response to the question “Assuming for the sake of argument that Alltel’s use of direct points of interconnection does not eliminate the projected costs proffered by Venture – are such costs appropriate and accurate?” Accordingly, Mr. Williams admits that his testimony is unrelated to Alltel’s amended response.

At page 10, line 8 through page 11, line 17, Mr. Williams presents testimony in response to statements made by Mr. Houdek in his rebuttal testimony. Alltel cannot argue that this is anything but surrebuttal testimony, which was not allowed by the Hearing Officer.

At page 11, line 18 through page 13, line 2, Mr. Williams comments on Venture’s showing that a suspension or modification is needed to prevent an undue economic burden. Mr. Williams already presented testimony on this issue in his original direct testimony at pages 19-21. In addition, Mr. Williams makes no showing and does not even allege that this argument is in any way related to Alltel’s amended response in the arbitration proceeding.

At page 13, lines 3 through 20, Mr. Williams’ comments on Venture’s ability to use “self help.” Mr. Williams already presented testimony on this issue in his original direct testimony at page 4. In addition, Mr. Williams makes no showing that this

argument is in any way related to Alltel's amended response in the arbitration proceeding.

At page 14, lines 1-9, Mr. Williams comments on Venture's assumption that three additional wireless carriers will enter Venture's market to provide service. Mr. Williams already presented testimony on this issue in his original direct testimony at page 10. In addition, Mr. Williams makes no showing and does not even allege that this argument is in any way related to Alltel's amended response in the arbitration proceeding.

At page 14, lines 10-23, Mr. Williams comments on whether grant of Venture's petition is necessary to avoid an adverse impact on end users. Mr. Williams admits that his testimony is based on "Venture's testimony as well as information gleaned from discovery..." and, therefore, admits that his testimony is not based on Alltel's amended response in the arbitration proceeding. In addition, Mr. Williams already presented testimony on this issue in his original direct testimony at page 19.

In sum, the sections of Mr. Williams' testimony that Venture argues should be stricken, have nothing to do with Alltel's amended response and it cannot be argued that they are the "result" of Alltel's amended response. Rather, he responds to the issues presented in Venture's rebuttal testimony or seeks to supplement issues already addressed in his direct testimony. In addition to violating the agreement of the parties and the Hearing Officer's Order, Alltel's attempt to present additional testimony at such a late date prejudices the other parties and should be stricken. Alltel should also not be allowed to introduce said testimony at the hearing.

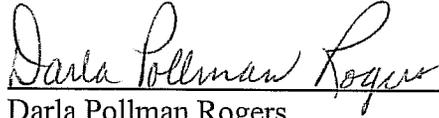
PRAYER FOR RELIEF

For all of the foregoing reasons, Venture and SDTA respectfully request the Commission to grant this Motion to Strike and Motion in Limine.

Venture further requests that the Commission hear this Motion at the regularly scheduled meeting on Tuesday, September 11, or as soon as possible thereafter.

(Signature page to follow)

Dated this 7th day of September, 2007.



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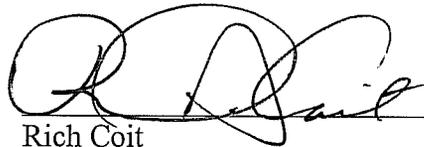
and

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Attorneys for Venture Communications

Dated this 7th day of September, 2007.



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ATTACHMENT

1

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OF COUNSEL:
Robert D. Hofer
E. D. Mayer

MARGO D. NORTHRUP, Associate

August 10, 2007

Hillary Brady
Office of the Hearing Examiners
State of South Dakota
210 East 4th Street
Pierre, SD 57501

Re: Docket No. TC06-181 (PUC 7-01) In the Matter of the Petition of Venture Communications Cooperative for Suspension or Modification of Local Dialing Parity and Reciprocal Compensation Obligations

Dear Ms. Brady:

You will find enclosed herein the following submitted on behalf of Venture Communications in the above docket:

1. Rebuttal Testimony of Randy Houdek;
2. Rebuttal Testimony of Jo Shotwell;

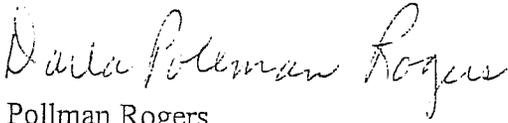
The rebuttal testimony of Mr. Thompson, both public and confidential, will be submitted under separate cover.

I would advise you that this will be the final prefiled testimony submitted in this case. When the parties agreed to an extension of the hearing date, the revised procedural schedule included dates for submission of surrebuttal testimony and response to surrebuttal testimony. The parties agreed that the surrebuttal testimony was limited, however, to any cost study testimony Venture included in its rebuttal testimony resulting from discovery data provided by Alltel. Response to surrebuttal testimony was to be limited to surrebuttal. This agreement between Alltel and Venture is set forth in email correspondence between Mr. Simpson, dated July 6, 2007 (Copy attached).

In the rebuttal testimony Venture is submitting today, Venture did not include any cost study testimony resulting from discovery materials submitted by Alltel. Therefore, there will be no surrebuttal testimony or response to surrebuttal testimony, and this will be the final round of prefiled testimony.

Sincerely yours,

RITER, ROGERS, WATTIER, BROWN & NORTHRUP,
LLP

By: 
Darla Pollman Rogers

DPR/sjh
Enclosure
Cc: Mary Sisak/Ben Dickens
Rich Coit
Talbot Wieczorek
Rolayne Ailts Wiest
Kara Van Bockern/Harlan Best
Stephen Rowell/Sean Simpson

Darla Rogers

From: JulieM.Johnson@state.sd.us
Sent: Saturday, July 07, 2007 9:23 PM
To: Darla Rogers
Subject: RE: Venture Suspension Proceeding

Would the other parties agree? Thanks! Julie

From: Darla Rogers [mailto:dprogers@riterlaw.com]
Sent: Sat 7/7/2007 2:24 PM
To: Johnson, Julie (OHE)
Cc: Sean.Simpson@alltel.com; Campbell, Diana
Subject: RE: Venture Suspension Proceeding

Ms. Johnson:

My suggestion is to start the hearing at 1:00 on August 27th to allow parties the opportunity to drive to Pierre.

Darla

-----Original Message-----

From: JulieM.Johnson@state.sd.us [mailto:JulieM.Johnson@state.sd.us]
Sent: Friday, July 06, 2007 6:14 PM
To: Darla Rogers
Cc: Sean.Simpson@alltel.com; JulieM.Johnson@state.sd.us; Diana.Campbell@state.sd.us
Subject: RE: Venture Suspension Proceeding

Thank you for sharing this correspondence with me. I wanted to be sure all parties were included in the dialogue that was brought to me. And let's copy Mr. Coit and Ms. Van Bockern just to be sure.

So, if I understand correctly, we'll set the new date for Aug. 27-29.
Correct? Shall we begin at 8:30 on the 27th, or do you need part of that day to travel in?

I'll make the new room and court reporter arrangements when I hear back from you.
Thanks!

Julie (605-773-6850 or 280-3642)

From: Darla Rogers [mailto:dprogers@riterlaw.com]
Sent: Fri 7/6/2007 5:09 PM
To: Johnson, Julie (OHE)
Cc: Sean Simpson
Subject: FW: Venture Suspension Proceeding

Dear Ms. Johnson:

Per your request, attached is the string of emails between myself and Sean Simpson on behalf of Alltel, setting out the terms of our agreement to a continuance of the hearing in the above-named proceeding. I would further advise you that my witnesses have

confirmed their availability on the new hearing dates. Please do not hesitate to contact me should you have any questions.

Darla Pollman Rogers

Attorney for Venture Communications

From: Sean Simpson [mailto:Sean.Simpson@alltel.com]
Sent: Friday, July 06, 2007 3:29 PM
To: Darla Rogers; Sean Simpson
Cc: Mary Sisak
Subject: RE: Venture Suspension Proceeding

I agree with your additions

Sean R. Simpson

Counsel for Alltel Communications, Inc.

2000 Technology Drive

Mankato, Minnesota 56001

507-385-2455 (Direct)

507-327-2455 (Mobile)

507-385-2200 (Fax)

From: Darla Rogers [mailto:dprogers@riterlaw.com]
Sent: Friday, July 06, 2007 3:26 PM
To: Sean Simpson
Cc: Mary Sisak
Subject: RE: Venture Suspension Proceeding

Sean:

I have two additions to your extension schedule:

1. We did not discuss surebuttal testimony on the telephone this morning. Surrebuttal testimony should be limited to any cost study testimony we include in our rebuttal testimony resulting from the data you provide to us by July 13th. We should have a chance to respond to your surebuttal testimony by August 24th, limited solely to your surebuttal. We should have the last opportunity to file testimony, since we are the moving party.

2. In our telephone conversation, you agreed that if Venture

provides 499s for the last three years, and an explanation of miscellaneous revenue, Venture has complied with all outstanding discovery requests. Venture's final responses should be due the same date as Alltel's data, which is Friday, July 13th.

With these additions, we are in agreement with continuance of the hearing date. We would suggest starting the hearing at 1:00 on Monday, August 27th and concluding on August 29th.

Ms. Johnson requested a copy of our email correspondence, so as soon as you have made my requested revisions, we need to send a copy to her.

Darla

From: Sean Simpson [mailto:Sean.Simpson@alltel.com]
Sent: Friday, July 06, 2007 2:13 PM
To: Darla Rogers
Subject: Venture Suspension Proceeding

Darla in follow-up to our phone call the schedule extension is as follows:

Intervener Direct testimony:	July 23
Venture Rebuttal:	August 10
Alltel Surrebuttal Due:	August 17th
Hearing: 27th.	Week of August

Alltel will provide by Friday July 13th:

- * Tower location Information within MTA
- * Average cost of tower facilities
- * Useful life of tower facilities
- * Average annual maintenance cost of tower facilities
- * MCOU data to the extent it is retained

Sean R. Simpson

Counsel for Alltel Communications, Inc.

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Mankato, Minnesota 56001

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507-327-2455 (Mobile)

507-385-2200 (Fax)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PEITION OF)
VENTURE COMMUNICATIONS)
COOPERATIVE FOR SUSPENSION OR)
MODIFICATION OF LOCAL DIALING) PUC 7-01
PARITY AND RECIPORCAL)
COMPENSATION OBLIGATIONS)

CERTIFICATE OF SERVICE

The undersigned, attorney for Venture Communications Cooperative, hereby certified that a true and correct copy of Rebuttal Testimony of Jo Shotwell, Randy Houdek was sent electronically on this 10th day of August, 2007, upon:

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& Nelson
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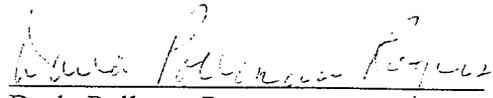
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Darla Pollman Rogers
Darla Pollman Rogers

ATTACHMENT

2

Darla Rogers

From: Sean Simpson [Sean.Simpson@alltel.com]
Sent: Monday, August 13, 2007 2:32 PM
To: tjw@gpgnlaw.com; Kara.VanBockern@state.sd.us; rolayne.wiest@state.sd.us; Stephen B Rowell; richcoit@sdaonline.com; bhd@bloostonlaw.com; mjs@bloostonlaw.com; Harlan.Best@state.sd.us; sean.simpson@alltel.com; hillary.brady@state.sd.us
Cc: Darla Rogers; Margo Northrup
Subject: RE: Docket No. TC06-181 (PUC 7-01) Venture Communications Rebuttal Testimony - Larry Thompson

I wish to follow-up on Ms. Roger's correspondence that indicated that Venture's filing would conclude all pre-filed testimony in this matter. The scheduling Order allows Surrebuttal testimony by Alltel on August 17, 2007. In initially extending the Scheduling Order, I agreed to allow Venture another opportunity for its own surrebuttal testimony on August 24, 2007 – such testimony was not provided for in the original Scheduling Order. I also agreed that Alltel's surrebuttal testimony would be limited to issues raised and addressed by Venture reply testimony – including any new cost data information. I did not agree to limit or otherwise foreclose Alltel's ability to file surrebuttal testimony related to the contested issues discussed in Venture's Reply testimony. The original Scheduling Order allowed Alltel an opportunity for surrebuttal testimony and Alltel intends to exercise that right in order to appropriately develop the factual record in this matter.

Furthermore, Alltel has continually sought disclosure of basic financial information that is directly relevant to the issues to be determined in this matter – namely any adverse financial impact on Venture and its subscribers. Alltel has repeatedly requested Venture's consolidated financial statements for the last 3 years. Such requests have to date been rejected by Venture, despite Ms. Johnson's prior ruling on the Motions to Compel. Alltel simply wants to gather sufficient information in order to confirm or rebut the claims of financial hardship made by Venture. The only way to do that is to assess the current financial state of Venture's operations – which Venture refuses access to. Alltel simply seeks to hold Venture accountable to the standard of relief afforded under 47 U.S.C. 251(f) – however the only way to truly gauge financial impact is to know and understand Venture current financial state. I raise this issue now because Alltel's ability to file complete surrebuttal testimony on the 17th is greatly prejudiced by Venture's continued resistance to disclose basic and readily available financial information directly relevant to the issues in dispute.

It is my understanding a call will be scheduled for tomorrow at 11:00, which may provide an opportunity to discuss this matter further. Please feel free to contact me prior to that time should you have any immediate questions.

Sean R. Simpson
Counsel for Alltel Communications, Inc.
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507-327-2455 (Mobile)
507-385-2200 (Fax)

From: Stephanie Harmon [mailto:S.Harmon@riterlaw.com]
Sent: Friday, August 10, 2007 5:51 PM
To: tjw@gpgnlaw.com; Kara.VanBockern@state.sd.us; rolayne.wiest@state.sd.us; Stephen B Rowell; richcoit@sdaonline.com; bhd@bloostonlaw.com; mjs@bloostonlaw.com; Harlan.Best@state.sd.us; sean.simpson@alltel.com
Cc: Darla Rogers; Margo Northrup
Subject: RE: Docket No. TC06-181 (PUC 7-01) Venture Communications Rebuttal Testimony - Larry Thompson

Attached please find the Rebuttal Testimony for Larry Thompson. Please note the restrictions pertaining to the confidential version of the testimony contained in the attached cover letter.

9/7/2007

Thank you,
Stephanie Harmon for Darla Pollman Rogers
Riter, Rogers, Wattier & Brown
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PO Box 280
Pierre, SD 57501
(605) 224-5825
s.harmon@riterlaw.com

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Thank You.

ATTACHMENT

3

Darla Rogers

From: Hillary.Brady@state.sd.us
Sent: Wednesday, August 15, 2007 5:06 PM
To: Darla Rogers; mjs@bloostonlaw.com; richcoit@sdtaonline.com; tjw@gpgnlaw.com; sean.simpson@alltel.com
Subject: Venture
Attachments: PUC.Venture.Letter1.doc

Attached please find my rulings stemming from Alltel's e-mail of August 13, 2007.

August 15, 2007

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SDTA
320 East Capitol Avenue
Pierre, SD 57501

RE: Venture Communications

Counsel:

As you know, a conference call was held in this matter on August 14, 2007 regarding several housekeeping matters that I wanted to take care of since I have recently been appointed to this file. In addition, argument was presented by counsel for Alltel, RCC and Venture in response to Mr. Simpson's e-mail of August 13, 2007. Additionally, I had a second conference call with available counsel from Alltel and Venture on August 15, 2007 to provide clarification. I have reviewed my notes, the record in this matter, the tape from Ms. Johnson's May 17, 2007 motion hearing and Mr. Wiczorek's e-mail of August 14, 2007.

Regarding surrebuttal testimony it seems that the most pertinent evidence of the intention of the parties can be derived from the e-mail string between Mr. Simpson, Ms. Rogers and Ms. Johnson dated July 6 and 7, 2007. In Ms. Rogers's response to Mr. Simpson's July 6, 2007 message she writes as follows:

I have two additions to your extension schedule:

1. We did not discuss surebuttal [sic] testimony on the telephone this morning. Surrebuttal testimony should be limited to any cost study testimony we include in our rebuttal testimony resulting from the data you provide to us by July 13. We should have a chance to respond to your surebuttal testimony by August 24th, limited solely to your surebuttal. We should have the last opportunity to file testimony, since we are the moving party.

2. In our telephone conversation, you agreed that if Venture provides 499s for the last three years, and an explanation of miscellaneous revenue, Venture has complied with all outstanding discovery requests. Venture's final responses should be due the same date as Alltel's data, which if [sic] Friday, July 13th.

With these additions, we are in agreement with continuance of the hearing date. We would suggest starting the hearing at 1:00 on Monday, August 27th and concluding on August 29th.

Ms. Johnson requested a copy of our email correspondence, so as soon as you have made my requested revisions, we need to send a copy to her.

Darla

Mr. Simpson replied via e-mail "I agree with your additions". The e-mail string was then forwarded to Hearing Examiner Johnson.

Mr. Simpson argued that emails aren't always clear and the above isn't really what he meant. However, during the conference calls he has appeared assertive, thorough, informed and articulate. It seems difficult to accept that his reply to Ms. Rogers's July 6, 2007 e-mail was just a cavalier response and not really what he had intended. The proposition that Venture did not include any cost study testimony resulting from discovery materials submitted by Alltel went uncontested. Therefore, it is clear from the e-mail correspondence of July 6, 2007 that surrebuttal prefiled testimony will end here.

Regarding discovery, apparently, the parties agreed to their own pared down version of Hearing Examiner Johnson's discovery order (refer to discovery order set forth in Johnson's e-mail dated Thursday May 24, 2007). I have not been provided, nor do I believe there exists, any written agreement as to what the parties subsequent agreement was. Venture indicates they complied in that they provided Alltel the last three years 499s and explanation of miscellaneous revenues. The best evidence before me of the parties' intentions is the May 6 and 7 e-mail wherein Mr. Simpson agrees with Ms. Rogers additions, numbers 1 and 2. Number 2 clearly sets forth that 499s and

explanations of miscellaneous revenue fulfill any outstanding discovery requests. That statement was agreed to by Mr. Simpson. Venture has fulfilled their discovery obligation.

Sincerely,

Hillary J. Brady
Office of Hearing Examiners

ATTACHMENT

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF)	JOINT MOTION FOR
VENTURE COMMUNICATION COOPERATIVE)	TRANSFER AND TO
FOR SUSPENSION OR MODIFICATION OF)	SET HEARING DATE
LOCAL DIALING PARITY RECIPROCAL)	TC06-181
COMPENSATION OBLIGATIONS)	

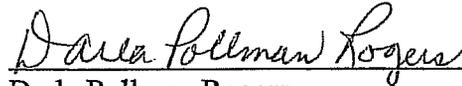
Come now the above named parties, Venture Communications (“Venture”), Alltel Communications, Inc. (“Alltel”), Rural Cellular Corporations (“RCC”), South Dakota Telecommunications (“SDTA”), and Staff (collectively referred to as “Parties”), by and through their respective counsel, and submit the following Joint Motion to transfer the docket to the Public Utilities Commission (“Commission”), and to set a hearing date in the docket. For good cause the parties request an Order from the Commission pursuant to the following Stipulation:

Stipulation and Motion

1. On October 24, 2006, the Commission received an application from Venture for suspension or modification of local dialing parity and certain reciprocal compensation obligations.
2. The Commission granted motions to intervene filed by SDTA, RCC and Alltel.
3. On February 6, 2007, this Commission granted Alltel’s request to use the Office of Hearing Examiners (“OHE”).
4. The parties no longer desire to use the OHE in this docket, and the parties agree that the hearing in this docket should be before the Commission.
5. The parties further agree to a hearing date of October 3rd and 4th, as discovery is completed, and all prefiled testimony has been filed, with the possible exception of additional pre-filed testimony that may result from amendment of Alltel’s response to Venture’s Petition for Arbitration (Docket TC06-159), and responses by Venture thereto. However, SDTA’s agreement is conditioned on its being allowed to complete presentation of its testimony on October 3, 1002, due to an unavoidable schedule conflict. The parties agree that the hearing may be conducted in such a manner as to allow SDTA to complete presentation of its testimony on October 3, 2007.

Accordingly, for good cause, the parties to this Joint Motion request an Order from the Commission transferring the case from the OHE to the Commission, and setting a hearing date of October 3 and 4, 2007.

Dated this 28th day of August, 2007.



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Attorneys for Venture Communications
Cooperative, Inc.

Dated this ___ day of August, 2007.

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Accordingly, for good cause, the parties to this Joint Motion request an Order from the Commission transferring the case from the OHE to the Commission, and setting a hearing date of October 3 and 4, 2007.

Dated this ___ day of August, 2007.

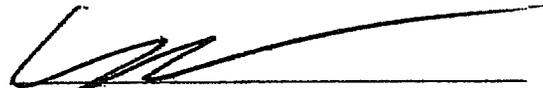
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Dated this 29 day of August, 2007.



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Dated this 28th day of August, 2007.



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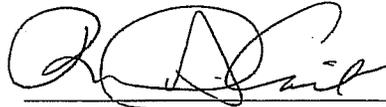
Dated this ___ day of August, 2007.

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